

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 1-21, 23-27, and 29 were pending in this application. By way of this reply, claims 24 and 25 have been canceled and new claims 30-36 have been added. Thus, claims 1-21, 23, 26-27, and 29-36 are now pending in this application. Claims 1, 20, 21, 23, 29 30 and 33 are independent, and the remaining claims, directly or indirectly, depend on claim 1, 29 or 33.

**Claim Amendments**

By way of this reply, independent claims 1-10, 12-17, 19-21, 23, and 29 have been amended to clarify the invention, and claims 24 and 25 have been canceled without prejudice or disclaimer.

Specifically, the features of "writer unit" recited in the claims have been clarified. Support for the amendments may be found in, for example, in Figure 29 (Steps S721 and S728) and Figures 51 (Step 764). Further, the term "client terminal" has been removed from the claims. No new matter has been added in these amendments.

In claim 19, the term "data for use in processing that..." has been amended as "data and/or computer program for use in processing that..." No new matter has been added in these amendments.

New claims 30-36 have been added. Support for new claim 35 may be found in paragraph [0143] of the published application. New claims 30-34 and 36 individually claim elements recited in claim 1, 2, or 35. No new matter has been added in these amendments.

#### **Objections**

Claim 25 is objected to for insufficient antecedent basis for reciting the limitations "the recordable medium" in the first line of the claim. By way of this reply, claim 25 has been canceled without prejudice or disclaimer. Thus, the objection is now moot.

#### **Rejection(s) under 35 U.S.C. § 101**

Claims 1-19 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner asserts that claims 1-19 appear to be directed to a system, comprising a server which delivers data through a network which a client receives and a writer unit, as such it is unclear, how does this fall into under a machine category. Claim 1-19 has been amended to clarify the feature of each claimed element and, thus, now the claimed invention clearly falls under a machine category. Accordingly, withdrawal of this rejection is respectfully requested.

#### **Rejection(s) under 35 U.S.C. § 112**

Claims 1 and 19 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, with respect to claim 1, the Examiner asserts that the term "of said recordable medium, in which data is not written, under a once only restriction" is unclear. By way of this reply, claim 1 has been amended to clarify the term,

substantially as suggested by the Examiner. With respect to claim 19, the Examiner asserts that the term "written to said recordable medium is initially written to said recordable medium" is unclear. By way of this reply, claim 19 has been amended to clarify that, in the claimed invention, data and/or computer program are "initially" written on a recordable medium (i.e. already written at the time of shipping from a factory), and now clearly describes the invention. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejection(s) under 35 U.S.C. § 102**

Claims 1, 6, 9, 12, 18-21, and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,206,821 ("Morimoto"). By way of this reply, independent claims 1, 20, 21, and 23 have been amended to clarify the claimed invention. To the extent that this rejection may still apply to independent claims 1, 20, 21, and 23, as amended, the rejection is respectfully traversed for the reasons set forth below.

One or more embodiments of the claimed invention are directed to a data delivery system, in which a server delivers data to a writer unit through a network and the writer unit writes the data to a recordable medium. Particularly, the recordable medium applied to the system includes a plurality of writable storage areas, in each of which data can be written. Further, the data delivery system is constructed so that the writer unit can write data only once in each writable storage area, where data has not been previously written, of a recordable medium used exclusively for the data delivery system. Due to this feature, the data delivery system prevents the situation in which new data is written over old data in the same storage area of the recordable medium.

Accordingly, independent claim 1, as amended, requires, in part, "wherein said writer unit writes said data only once in each writable storage area, where data has not been

written of said recordable medium only when said recordable medium is appropriate for said data delivery system." This feature of the claimed invention is particularly advantageous when it is applied to an online business of providing information through a network. For example, the user of the system can download data from the server as long as writable storage areas, where data has not been previously written yet, are left in the specific recordable medium. However, when there is no free space left in the recordable medium, the user has to purchase another medium. Such a charging system advantageously intensifies its user's desire for continuous purchasing, for instance, rather than a billing type system charging for each service. As a result, the owner of the system or the seller of the recordable medium profit by increasing sales of the medium (*See*, for example, paragraph [0016] of the published application).

In contrast, Morimoto shows a system utilized to download information over a network from a server to a computer. However, Morimoto fails to teach or suggest any element requiring the usage of such a recordable medium specific to the system, as required by the claimed invention (*See*, for example, column 7, lines 12-14 of Morimoto).

The system shown in Morimoto includes an optical disk as a record medium. However, the optical disk of Morimoto is not used exclusively for the data delivery system and, thus, can never be used as an expendable element of a charging system. Instead, the optical disk of Morimoto is merely selected from market products with a standard specification. In fact, unlike the claimed invention, the system of Morimoto can never contribute to intensifying its user's desire for continuous purchasing.

In view of the above, independent claim 1, as amended, is patentable over Morimoto, because Morimoto fail to teach or suggest all of the limitations of amended claim 1. Independent claims 20, 21, and 23, as amended, include, in part, similar limitations to that of claim 1 discussed above. Therefore, independent claims 20, 21, and 23 are patentable over

Morimoto for at least the same reasons. By virtue of their dependence, claims 6, 9, 12, 18, and 19 are also patentable for at least the same reasons. Particularly, as discussed above, amended claim 19 includes a further limitation that the data and/or computer program are initially written on a recordable medium (for example, in its manufacturing process), both structurally and functionally, which is totally different from the optical disks of Morimoto. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejection(s) under 35 U.S.C. § 103**

Claims 2-5, 7-11, 13-17, 24-27, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morimoto in view of U.S. Patent No. 6,031,815 ("Heemskerk"), U.S. Patent No. 6,144,992 ("Turpin"), U.S. Patent Application Publication No. 2004/0199687 ("Hsu"), U.S. Patent Application Publication No. 2005/0196129 ("Kobayashi"), U.S. Patent Application Publication No. 2004/0133550 ("Okamura"), U.S. Patent No. 6,587,403 ("Keller"), U.S. Patent Application Publication No. 2004/0111250 ("Hensley"), "DiskJuggler User's Guide" (January 24, 2003), U.S. Patent No. 5,886,275 ("Kato"), or U.S. Patent No. 7,757,752 ("Sako"). As discussed above, by way of this reply, claims 24 and 25 have been canceled without prejudice or disclaimer. Thus, with respect to claims 24 and 25, the rejection is now moot.

Further, as discussed above, independent claims 1, 20, 21, and 23, as amended are patentable over Morimoto. None of the above references, Heemskerk, Turpin, Hsu, Kobayashi, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, and Sako provide that which Morimoto lack with respect to claims 1, 20, 21, and 23. Thus, claims 1, 20, 21, and 23 are patentable over Morimoto, Heemskerk, Turpin, Hsu, Kobayashi, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, and Sako.

Also, independent claim 29, which have been amended in this reply, include similar limitations to that of claims 1, 20, 21, and 23 discussed above. Thus, claim 29 is patentable for at least the same reasons as set forth above.

In view of the above, none of the references, Morimoto, Heemskerck, Turpin, Hsu, Kobayashi, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, and Sako, whether considered separately or in combination, teach or suggest all of the limitations of amended claims 1, 20, 21, 23, and 29. Thus, claims 1, 20, 21, 23, and 29, as amended, are patentable over Morimoto, Heemskerck, Turpin, Hsu, Kobayashi, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, and Sako. By virtue of their dependence, claims 2-19 are 26-27 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

#### **New Claims**


New claims 30-34 and 36 include substantially similar limitations to that of independent claim 1, as amended, and thus these claims are patentable for at least analogous reasons to those set forth above. New claim 35 is dependent from claim 1. Accordingly, new claim 35 is patentable for at least the same reasons as set forth above. Thus, entry and favorable consideration is respectfully requested.

**Conclusion**

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 04995/240001).

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Respectfully submitted,

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